

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070874
	:	TRIAL NO. 07CRB-19585
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
TIMOTHY SMITH,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Timothy Smith appeals from his conviction for possession of a counterfeit controlled substance in violation of R.C. 2925.37(A). On appeal, he presents two assignments of error.

We overrule Smith’s first assignment of error because the trial court properly overruled his pretrial motion to dismiss the complaint under which he was prosecuted. R.C. 2925.37(A) proscribes “knowingly possess[ing] a counterfeit controlled substance.” It does not, as Smith insists, require proof that the offender knew that the controlled substance was counterfeit.² And the complaint charging Smith with possessing a counterfeit controlled substance conformed with Crim.R. 3 and satisfied the due-process guarantees of the state and federal constitutions,

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² Cf. R.C. 2925.37(B) (proscribing “knowingly mak[ing], sell[ing], offer[ing] to sell, or deliver[ing] any substance that the person knows is a counterfeit controlled substance”).

because it informed him of the nature of the offense by citing R.C. 2925.37 and by setting forth the material elements of, and the essential facts constituting, the offense.³

Smith's second assignment of error, challenging the legal sufficiency of the evidence supporting his conviction, also depends upon, and falls with, his assertion that R.C. 2925.37 required proof that he had known that the controlled substance he had possessed was counterfeit. We hold that the evidence adduced at trial was sufficient to support Smith's conviction because, viewing that evidence in a light most favorable to the prosecution, any rational trier of fact could have found beyond a reasonable doubt that Smith had knowingly possessed a counterfeit controlled substance.⁴

We, therefore, affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on September 17, 2008
per order of the Court _____.
Presiding Judge

³ See Crim.R. 3; *State v. Burgun* (1976), 49 Ohio App.2d 112, 359 N.E.2d 1018.

⁴ See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus; accord *State v. Waddy* (1992), 63 Ohio St.3d 424, 588 N.E.2d 819.